

**BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION**

<b>IN THE MATTER OF THE INVESTIGATION</b>	)	
<b>OF THE CONTINUED REASONABLENESS</b>	)	<b>CASE NO. GNR-E-02-01</b>
<b>OF CURRENT SIZE LIMITATIONS FOR</b>	)	
<b>PURPA QF PUBLISHED RATE</b>	)	<b>NOTICE OF INVESTIGATION</b>
<b>ELIGIBILITY (i.e., 1 MW) AND</b>	)	
<b>RESTRICTIONS ON CONTRACT LENGTH</b>	)	<b>NOTICE OF MODIFIED</b>
<b>(i.e., 5 YEARS).</b>	)	<b>PROCEDURE</b>
	)	
	)	<b>NOTICE OF COMMENT/</b>
	)	<b>PROTEST DEADLINE</b>
	)	

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Congress in 1978 as part of the National Energy Act and as part of a package of legislation designed to address the then prevailing nationwide energy crisis passed the Public Utility Regulatory Policies Act (PURPA). Its purpose was to encourage the promotion and development of renewable energy technologies as alternatives to fossil fuels and the construction of new generating facilities by electric utilities. PURPA requires that electric utilities offer to purchase power produced by cogenerators or small power producers that obtain qualifying facility (QF) status.

The rate to be paid for QF power is not to exceed the "incremental costs" to the utility of alternative electric energy. Under the implementing rules and regulations of the Federal Energy Regulatory Commission (FERC) the rate a qualifying facility receives for the sale of its power is generally referred to as the "avoided cost" rate and should reflect the incremental cost to an electric utility of electric energy or capacity or both, which, but for the purchase from the qualifying facility, such utility would generate itself or purchase from another source. PURPA and related FERC regulations provide that the rates for QF purchases (1) shall be just and reasonable to the electric consumers of the electric utility and in the public interest, and (2) shall not discriminate against qualifying cogenerators or small power producers.

FERC promulgated the general scheme and rules, but left implementation to the regulatory authorities of the individual states. Under FERC rules and regulations, published rates are required only for purchases from qualifying facilities with a designed capacity of 100

kilowatts (kW) or less. Reference 18 C.F.R. § 292.304(c). PURPA, however, does not prohibit the publishing of rates for larger projects. In its discretion, this Commission has set the design capacity limit for published rates at 1 megawatt (MW). A special hearing to establish and approve such rates is required. Rates and contracts for facilities larger than 1 MW are to be individually negotiated. FERC establishes no requirement regarding length of contract.

In comments filed in Idaho Power Company Case No. IPC-E-01-37, the J.R. Simplot Company petitioned the Commission to revisit and review two issues, i.e., (1) the size of QF projects entitled to published avoided cost rates and (2) contract length. Simplot asks that the Commission re-examine the basis for its decisions to limit published rates to QFs smaller than 1 MW in size and set the required contract term at five years.

In Order No. 25884, Case No. IPC-E-93-28, the Commission found that there was a widely held expectation that there would be increasing competition within the electric utility industry. The Commission also found that ratepayers should be indifferent to whether a resource serving them was constructed by a utility or an independent developer. The cost and quality of service provided by either should be the same. Simplot contends that competition in the electric industry in Idaho is very unlikely in the foreseeable future and that such a rationale for limiting the size of QFs to 1 MW for published rates, is no longer compelling or an eventuality. Order No. 25884 pp. 3-4. Simplot also questions whether ratepayers have been held indifferent. Simplot proposes that QF developers up to 10 MW in size should have access to published SAR based avoided cost rates. Simplot also advocates reinstatement of the 20-year contract as necessary for the QF industry to be able to assist the State's regulated electric utilities in providing the capacity and energy they need.

Simplot requested that the Commission (1) expand entitlement to the Commission's published avoided cost rates to all QFs that are 10 MW or less in capacity and (2) increase the standard PURPA contract length for all QFs 10 MW or less in capacity from 5 to 20 years, with the QF developer retaining the right to choose the term up to 20 years.

The Commission in its Order No. 28945 in Case No. IPC-E-01-37 found the issues of contract length and size limitation raised by Simplot to be important issues meriting a separate forum or docket for discussion.

Accordingly, YOU ARE HEREBY NOTIFIED that the Commission has initiated this generic docket and is soliciting comments on the continued reasonableness of current QF size limitations for published rate eligibility (i.e., 1 MW) and restrictions on contract length (i.e., 5 years) from the QF community, from interested persons and from those regulated electric utilities (Idaho Power, Avista and PacifiCorp) required to purchase QF power pursuant to Sections 201 and 210 of the Public Utility Regulatory Policies Act of 1978, and the implementing rules and regulations of the Federal Energy Regulatory Commission (FERC).

YOU ARE FURTHER NOTIFIED that the Commission has also preliminarily found that the public interest regarding the issues under consideration in this docket may not require a hearing and that the Investigation may be processed under **Modified Procedure, i.e., by written submission rather than by hearing**. Reference Commission Rules of Procedure, IDAPA 31.01.01.201-204.

YOU ARE FURTHER NOTIFIED that the Commission will not hold a hearing in this proceeding unless it receives written protests or comments opposing the use of Modified Procedure and stating why Modified Procedure should not be used. Reference IDAPA 31.01.01.203.

YOU ARE FURTHER NOTIFIED that **the deadline for filing written comments or protests** with respect to this investigation and the Commission's use of Modified Procedure in Case No. GNR-E-02-1 is **Friday, March 15, 2002**. Persons desiring a hearing must request a hearing in their written protests or comments.

YOU ARE FURTHER NOTIFIED that if no written comments or protests are received within the deadline, the Commission will consider the matter on its merits and enter its Order without a formal hearing. If comments or protests are filed within the deadline, the Commission will consider them and in its discretion may set the matter for hearing or may decide the matter and issue its Order on the basis of the written positions before it. Reference IDAPA 31.01.01.204.

YOU ARE FURTHER NOTIFIED that the written comments concerning this investigation should be mailed to the Commission, Avista Corporation, PacifiCorp dba Utah Power & Light Company and Idaho Company at the addresses reflected below.

COMMISSION SECRETARY  
IDAHO PUBLIC UTILITIES COMMISSION  
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**AVISTA CORPORATION**

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**IDAHO POWER COMPANY**

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All comments should contain the case caption and case number shown on the first page of this document.

Persons desiring to submit comments via e-mail may do so by accessing the Commission's homepage located at [www.puc.state.id.us](http://www.puc.state.id.us) under the heading "Contact Us." Once at the "Contact Us" page, select "Email Case Comments or Questions," fill in the case number as it appears on the front of this document, and enter your comments.

DATED at Boise, Idaho this 4th day of February 2002.

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PAUL KJELLANDER, PRESIDENT

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MARSHA H. SMITH, COMMISSIONER

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DENNIS S. HANSEN, COMMISSIONER

ATTEST:

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Jean D. Jewell  
Commission Secretary

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